

### **REMARKS**

Claims 1-5, 7, and 8 are pending in the above-captioned application. Claim 6 has been cancelled. Claim 8 has been added. Claims 1, 7, and 8 are in independent form.

#### **Claim Rejections - §103**

2-8. Claims 1-3 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,308,130 to Lee ("the '130 reference") in view of U.S. Pat. 5,899,508 to Cetnar et al. ("the '508 reference"). Applicant respectfully traverses the rejection.

The '130 reference discloses a block out lever (174) that pivots between an unactuated position out of a path of movement of an operating lever (76) and an actuated position blocking the operating lever (76).

The '508 reference discloses a tab (76) received in a slot (68).

Claim 1 of the above-captioned application claims a latch mechanism including a latch hook movable between a locked position and an unlocked position; a release lever operatively coupled to the latch hook for selectively moving the latch hook between the locked and unlocked positions; and an inertia lever engagable with the release lever to prevent movement of the latch hook between the locked and unlocked positions, the inertia lever movably supported within the latch mechanism for moving in and out of engagement with the release lever in response to a side impact upon the vehicle; wherein the release lever includes a slot presenting sides for engaging a portion of the inertia lever for automatically toggling the inertia lever in response to movement of the release lever to prevent seizing of the inertia lever within the latch mechanism.

The Examiner states that "[i]t would have been obvious to one of ordinary skill in the art to include a slot as taught by Cetnar on the release lever of Lee for engagement with tab (182) in order to assure proper alignment of the levers throughout complete motion of the inertia lever relative to the release lever."

Applicant respectfully points out that if a slot as taught by the '508 reference (Cetnar) is included on the release lever (76) of the '130 reference (Lee) for engagement with the tab (182)

in order to assure proper alignment of the levers throughout complete motion of the inertia lever (174) relative to the release lever (76), the inertia lever (174) *cannot* move in and out of engagement with the release lever (76), as specifically required by claim 1 of the above-captioned application. In the '508 reference, the slot (68) is enclosed and the tab (76) is *always received* in the slot (68). Therefore, it is clear that if a slot as taught by the '508 reference (Cetnar) is included on the release lever (76) of the '130 reference (Lee) for engagement with the tab (182), the tab (182) will always be received in the slot such that the inertia lever (174) will always be engaged with the release lever (76). As such, the inertia lever (174) *cannot* move in and out of engagement with the release lever (76) if the tab (182) is always received in the slot.

Any rejection under 35 U.S.C. §103 must be supported by a clear articulation of the reason(s) why the claimed invention would have been obvious. *See* MPEP §2141. When relying on numerous references, the Examiner must identify a sufficient reason or detailed analysis of why the references should be combined. *See In re Mayne*, 104 F.3d 1339, 1342, 41 USPQ2d 1451, 1454 (Fed. Cir. 1997). In the instant case, there is no suggestion to combine the teachings and suggestions of the '130 reference (Lee) and the '508 reference (Cetnar), as advanced by the Examiner, except from using Applicant's invention as a template through a hindsight reconstruction of Applicant's claims. The '130 reference (Lee) teaches a block out lever (174) that pivots between an unactuated position out of a path of movement of an operating lever (76) and an actuated position blocking the operating lever (76). The '508 reference (Cetnar) teaches a tab (76) received in an enclosed slot (68). If the references are combined the block out lever (174) will not move in and out of engagement with the operating lever (76), as required by claim 1 of the above-captioned application. Thus, Applicant fails to see the reason(s) why the references should be combined. Therefore, claim 1 is allowable.

Claims 2-5 depend from claim 1 and, as such, are construed to incorporate by reference all the limitations of the claim to which they refer, *see* 35 U.S.C. §112, fourth paragraph. Thus, claims 2-5 must be read as including the limitation of "an inertia lever engagable with said release lever to prevent movement of said latch hook between said locked and unlocked positions, said inertia lever movably supported within said latch mechanism for moving in and

out of engagement with said release lever in response to a side impact upon the vehicle.” Thus, claims 2-5 are allowable.

Further, claim 2 of the above-captioned application claims a means for biasing the inertia lever to a first position out of engagement with the release lever.

The Examiner states that “Lee shows a means for biasing (180) the inertia lever to a first position out of engagement with said release lever.”

Applicant respectfully points out that the Examiner states that “[i]t would have been obvious to one of ordinary skill in the art to include a slot as taught by Cetnar on the release lever of Lee for engagement with tab (182) in order to assure proper alignment of the levers throughout complete motion of the inertia lever relative to the release lever.” Thus, if the tab (182) on the inertia lever (174) is received in a slot on the release lever (76) to assure proper alignment of the levers throughout the complete motion of the inertia lever (174) relative to the release lever (76), it is clear that the inertia lever (174) *cannot* be biased to a first position out of engagement with the release lever (76), as specifically required by claim 2 of the above-captioned application. The statement that the release lever (76) includes a slot for engagement with the tab (182) in order to assure proper alignment of the levers throughout complete motion of the inertia lever (174) relative to the release lever (76) is contradictory to the statement that the inertia lever (174) is biased to a first position out of engagement with the release lever (76). In other words, the tab (182) and slot cannot be engaged throughout complete motion of the inertia lever (174) relative to the release lever (76) while the inertia lever (174) is biased to a position out of engagement with the release lever (76).

Claim 7 is allowable for the reasons set forth above with respect to claim 1.

Therefore, Applicant respectfully requests that the rejection of claims 1-3 and 7 under 35 U.S.C. §103(a) as being unpatentable over the '130 reference in view of the '508 reference be withdrawn.

**Allowable Subject Matter**

9. The Examiner states that "[c]laims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." In response, Applicant has added new independent claim 8. Independent claim 8 includes all of the limitations of base claim 1, intervening claims 2 and 3, and allowable claim 4. Thus, independent claim 8 is allowable.

It is respectfully submitted that this patent application is in condition for allowance, which allowance is respectfully solicited. If the Examiner has any questions regarding this amendment or the patent application, the Examiner is invited to contact the undersigned.

Respectfully submitted,



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